

Broken Buck
EA# OR-104-98-26
Decision Document

This project was formerly analyzed in EA No. OR-106-96-01. This EA covered five units. Unit 17A was offered separately and awarded on November 26, 1996 as the "Black Hole" Timber Sale. This sale has been logged and only awaits the completion of slash burning. The remaining four units were offered as replacement volume for the Wren 'N Doubt T.S. pursuant to Section 2001(k)(3) of Public Law 104-19 and awarded on September 15, 1997. This sale has never been operated on due to legal challenges. On April 28, 1998, Judge Rothstein of the U.S. District Court, Western District of Washington, issued an order in the case of Pacific Coast Federation of Fisherman's Association et al, vs the National Marine Fisheries Service (NMFS), et al, which found the BLM to be procedurally out of compliance with Section 7(a)(2) of the Endangered Species Act (ESA) due to a determination that the site-specific Biological Opinions (BO) of June 18, 1997 and July 22, 1997 are invalid. This analysis is needed to more clearly establish project consistency with Watershed Analysis (WA), the Aquatic Conservation Strategy (ACS) objectives, and National Marine Fisheries Service (NMFS) March 18, 1997 plan-level BO.

An Interdisciplinary (ID) Team of the Swiftwater Resource Area, Roseburg District, Bureau of Land Management has analyzed the proposed **Broken Buck** project. This analysis and the "Finding of No Significant Impact" (FONSI) was documented in Environmental Assessment (EA) No. OR-104-98-28. The thirty day public review and comment period was completed on September 24th, 1998. One letter with comments was received as a result of public review.

The proposed action involves the regeneration harvest of mature and old growth forest in the Brush Creek and Hayhurst Valley Subwatershed located in Sections 9 and 17; T23S R6W; W.M. Harvest activities will occur on 89 acres and harvest approximately 6385 CCF of timber and is in the Matrix Land Use Allocation.

The following objectives will be met by this proposal:

1. Practice ecosystem management as outlined in the ROD and RMP (EA, pg. 2).
2. "Produce a sustainable supply of timber and other forest commodities" (RMP pg. 33) and meet District ASQ goals.

Decision

It is my decision to authorize the implementation of the Proposed Action Alternative as outlined above and lift the suspension of the sale to permit the purchaser to resume operations on the Broken Buck T.S. and to complete the burning of slash on the Black Hole T.S. The sale suspension will not be lifted until a final BO or letter of concurrence, which includes a non-jeopardy determination, has been received from the NMFS. The expected implementation of this project is in the summer of 1999. The contract duration will be 36 months. The project design features for this alternative are listed on pages 5-8 of the EA. These features have been developed

into contract stipulations and will be implemented as part of the timber sale contract. Section II of the EA describes the "Proposed Action" and "No Action" alternatives. The No Action alternative was not selected because the EA did not identify any impacts of the Proposed Action that would be beyond those identified in the EIS. The No Action alternative would not meet the objective of producing a sustainable supply of timber and other forest commodities.

The EA (page 1) erroneously stated that the Broken Buck portion of this analysis was "... sold at auction ... ". The EA should have stated that these units were 'replacement volume for the Wren 'N Doubt T.S. Units #'s 2, 3 and 7, pursuant to Section 2001 (k)(3) of Public Law 104-19'.

Decision Rationale

The Proposed Action Alternative meets the objectives for lands in the Matrix and Riparian Reserve Land Use Allocations and follows the principles set forth in the ROD for the Northwest Forest Plan (NFP), dated April 13, 1994 and the RMP, dated June 1995.

Cultural clearance with the State Historical Preservation Office was completed and resulted in a "No Effect" determination.

Consultation with U.S. Fish and Wildlife Service for this project has been completed. The BO concluded that the action is "... not likely to jeopardize the continued existence of the spotted owl or the murrelet or adversely modify designated or proposed critical habitat for either species."

Consultation under Section 7(a)(4) of the Endangered Species Act has not been completed with the NMFS on the Umpqua River cutthroat trout, Oregon Coast steelhead trout and Oregon Coast coho salmon. The sale contract suspension will not be lifted until a final BO or letter of concurrence, which includes a non-jeopardy determination, has been received. The sale was designed to follow the guidance of the RMP and the NFP, and to incorporate mitigations identified in the consultations on previously listed salmonids, as appropriate. Therefore, it is our expectation that the BO will not make a jeopardy determination nor prescribe any additional reasonable and prudent measures or terms and conditions that are not already part of the sale design and mitigation. If additional reasonable and prudent alternative measures or terms and conditions are prescribed which would require alteration in the terms of the sale contract, the agency retains the discretion (prior to contract award) to adjust the sale design accordingly and readvertise the sale if necessary.

This project was reviewed for consistency with the ACS objectives by the ID Team as well as the Level I Team during formal consultation with the NMFS. A finding of consistency was made in the FONSI subject to completion of consultation with NMFS.

This decision is based on the fact that the Proposed Action Alternative implements the Standards and Guidelines (S&Gs) as stated in the NFP and the RMP. The project design features as stated in the EA would protect the Riparian Reserves, minimize soil compaction, limit erosion, protect slope stability, wildlife, air, water quality, and fish habitat, as well as protect other identified resource values. This decision recognizes that impacts will occur to these resources, however, the

impacts to resource values would not exceed those identified in the Final Supplemental Environmental Impact Statement (FSEIS). The Decision provides timber commodities with impacts to the environment at a level within the bounds of the FSEIS.

Comments were solicited from affected tribal governments, adjacent landowners and affected State and local government agencies. No comments were received. During the thirty day public review period, comments were received from Umpqua Watersheds, Inc. (Francis Eatherington). None of the comments provided new information which should be considered in this decision. Most of the comments are the result of a difference of interpretation over the Northwest Forest Plan ROD or opposition to timber harvest on Federal lands. The following comment warrants clarification:

! "Page one of the current Broken Buck EA states that the four units of this sale "were sold at auction". However, the 6/11/97 Decision Document states that these four units were never to be sold at auction, but were "replacement volume for the Wren 'N Doubt T.S. units #'s 2, 3 and 7, pursuant to Section 2001 (k)(3) of Public Law 104-19" Which is correct?"

The Decision Document of 6/11/97 is correct and the EA reference is in error. This fact is noted and is corrected as part of this decision.

Compliance and Monitoring

Monitoring will be conducted as per the guidance given in the ROD and the RMP.

Protest and Appeal Procedures

Forest Management Regulation 43 CFR 5003.2 states that "[w]hen a decision is made to conduct an advertised timber sale, the notice of such sale shall constitute the decision document." This notice will be placed in *The News Review* and constitute the decision document with authority to proceed with the proposed action. As outlined in Federal Regulations 43 CFR, 5003.3, "Protests of ... Advertised timber sales may be made within 15 days of the publication of a ... notice of sale in a newspaper of general circulation." Protests shall be filed with the authorized officer (John L. Hayes) and shall contain a written statement of reasons for protesting the decision. Protests received more than 15 days after the publication of ... the notice of sale are not timely filed and shall not be considered. Upon timely filing of a protest, the authorized officer shall reconsider the decision to be implemented in light of the statement of reasons for the protest and other pertinent information available to him/her. The authorized officer shall, at the conclusion of his/her review, serve his/her decision in writing to the protesting party. Upon denial of a protest ... the authorized officer may proceed with the implementation of the decision.

For further information, contact John L. Hayes, Area Manager, Swiftwater Resource Area, Roseburg District, Bureau of Land Management, 777 NW Garden Valley Blvd; Roseburg, OR. 97470, 541 440-4931.

John L. Hayes, Area Manager

Date

Swiftwater Resource Area